

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matters of	)	
	)	
Lifeline and Link- Up	)	WC Docket No. 03-109
	)	
Federal State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
TracFone Wireless, Inc.	)	
	)	
Petitions for Designation as an Eligible	)	
Telecommunications Carrier in the States	)	
Of New York, Florida and Virginia	)	

**COMMENTS OF**  
**ALLIANCE FOR COMMUNITY MEDIA, APPALACHIAN PEOPLE’S**  
**COALITION, CENTER FOR DIGITAL DEMOCRACY, CONSUMER ACTION,**  
**and U.S. CONFERENCE OF CATHOLIC BISHOPS**

**I. Introduction and Summary.**

The above-named public interest organization (“Public Interest Commenters”) respectfully submits the following comments through our counsel, the Media Access Project, encouraging the Commission to allow carriers to be designated as Eligible Telecommunications Carriers (“ETCs”) for Lifeline service alone.<sup>1</sup> As long-time supporters of the Lifeline/Link-Up Program, Public Interest Commenters believe that low-income people deserve choices in telecommunications that meet their unique needs

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<sup>1</sup> These Comments are submitted in response to the Federal Communications Commission (“Commission”) request on two filings concerning eligible telecommunications carrier status (“ETC”) for carriers that seek support only from the Lifeline/Link Up fund. *See* Public Notice DA 04-2750 (August 30, 2004). AT&T Corp. filed a Petition for Limited Reconsideration on July 21, 2004 and TracFone Wireless, Inc. filed amendments to petitions seeking ETC status in Florida, New York and Virginia on August 16, 2004. *See* AT&T Corp. Petition for Limited Reconsideration, WC Docket No. 03-109, filed July 21, 2004 (“AT&T Petition”). TracFone Wireless, Amendments to Petitions for Designation as an Eligible Telecommunications Carrier in the State of New York, State of Florida, and Commonwealth of Virginia, CC Docket No. 96-45 (filed August 16, 2004) (“TracFone Amended Petition”).

and that expand the service to as many eligible people as possible.<sup>2</sup> As demonstrated in the comments in this proceeding, low-income people often choose wireless communications as best suiting their needs. The national policy of this country is to promote communications regardless of income – this policy does not change if the telephone connection is wireless or wired. Because we believe in choice for all citizens, we generally support the idea of a Lifeline specific ETC designation for qualified carriers which seek only to participate in the Lifeline program. At the same time and equally important, we believe the Commission must accompany Lifeline-only certification with disclosure obligations that will allow consumers to compare prices and offerings and select the most appropriate and cost-effective service.

Further, we agree with those commenters, such as the National Association of State Utility Consumer Advocates (“NASUCA”), TracFone, and AT&T, which argue that some of the current standards governing ETC status are ill-suited to the Lifeline program and serve as a barrier for carriers willing and able to serve low-income consumers. Opening up eligibility for ETC status to a range of competitive providers, whether wireline or wireless, facilities based or reseller, is in the public interest. It will provide more choices to Lifeline participants and increase enrollment of low-income consumers in the program. Allowing new competitors into an area right now dominated by incumbents will help to bring innovation and higher levels of service to people with lower incomes.

Finally, while we share the view of many commenters that the FCC should initiate and quickly complete a rulemaking to address the issue raised here in a comprehensive

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<sup>2</sup> Descriptions of the above commenters are included in Attachment B appended hereto.

manner, we believe it should be combined with case-by-case entry to speed services to low-income people.

## **II. Wireless Services and a Variety of Payment Plans are Often Critical to People with Low Incomes.**

A number of commenters have pointed out that consumers are seeking new choices in phone service and in all income brackets are increasingly migrating to wireless phone service. Numbers cited by many commenters show that *fifty-one percent* of households with an income of under \$20,000 and *fifty-six percent* of households with an income under \$30,000 use mobile phones. For single women head-of-households with incomes less than \$30,000, usage jumps to *seventy-two percent*, only two percent less than the national rate for all Americans.<sup>3</sup> These numbers show that, even without a Lifeline subsidy, many of these consumers find wireless services essential to their daily lives.

Commenters, including the League of United Latin American Citizens (“LULAC”), the National Consumers League, the American Association for People with Disabilities (“AAPD”) and the Women’s Alliance, have ably set out the special importance of wireless to low income people.<sup>4</sup> For example, AAPD points out that access to wireless service is critically important to people with disabilities because it “allows people with disabilities to more fully participate in society while having access to medical providers and emergency services. For families who care for relatives with

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<sup>3</sup> Pew Internet and American Life Project, February 2004 Survey (see Attachment A appended hereto).

<sup>4</sup> *See, inter alia*, Comments of the League of United Latin American Citizens; the American Association of People with Disabilities and Self Help for the Hard of Hearing; The National Consumers National Consumers League; The Women’s Alliance. *See also* Comments of the National Congress of American Indians; Comments of the American Foundation for the Blind

disabilities, wireless services have also become essential.”<sup>5</sup> Similarly, the Women’s Alliance describes the value of wireless to women moving from welfare to work. “Lack of phone service is a serious barrier to employment for many of our clients. And for many, wireless service is a better option... low income women often travel long distances to work and many have no access to telephones while on the job.... Many low income women move frequently, often stay for some periods with friends and family and do not have the resources to have a landline repeatedly installed.”<sup>6</sup> And LULAC notes that “Other low income consumers such as migrant workers move frequently and work or travel through rural areas with little access to regular landline phone service.” We strongly concur with those observations.<sup>7</sup>

Numerous commenters also note the value of pre-paid wireless phone service, noting that the lack of annual contracts, set monthly charges or late fees makes pre-paid the best option for many consumers, and for some, an alternative to regular in-home phone service.<sup>8</sup> We agree some consumers may find it easier to stay within budget with a pre-paid wireless service, and pre-paid is the only way some low income people, particularly those with low credit ratings, may obtain wireless phone service. As explained below, however, it is important that low-income people are given the tools to choose among services by being given clear, consistent comparative data about prices and service.

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<sup>5</sup> See AAPD Comments at 4.

<sup>6</sup> See Women’s Alliance Comments at 2.

<sup>7</sup> See LULAC Comments at 2.

<sup>8</sup> See *supra* Comments cited in note 6.

### **III. The Commission Should Require Lifeline-Only ETCs to Offer Comparative Pricing and Plan Information in Marketing Materials and at the Point of Sale.**

While Public Interest Commenters support granting Lifeline-only status to ETCs, we wish to protect consumers offered these services from being taken advantage of by unscrupulous marketers. Individuals who receive the benefit of Lifeline can ill-afford an expensive mistake. We share generally the concern of NASUCA that some of these plans may not be the most economical choice for some consumers. By the same token, as noted above, we recognize that many low-income consumers may require or prefer mobile telephone service, and we wish to facilitate that choice.

As a consequence, we strongly urge the Commission to require meaningful price disclosure in their marketing materials and at the point of sale. As TracFone recognizes, the Commission has the full authority to impose safeguards.<sup>9</sup>

Disclosure should emphasize that the Lifeline price may be available from other carriers and should include a clear, consistent per-minute, or other consistent unit of measure, cost disclosure. Consistent units of disclosure for all service providers is particularly important because the new services offered by Lifeline-only ETCs will be differently structured than virtually all current offerings. Without a consistent unit of disclosure, it will be hard to compare monthly plans with per-minute plans. For example, disclosure could include several sample customers – a caller that makes two 10-minute calls per day, a caller that makes ten 10-minute calls per day, and a caller that would make one 10-minute call only once per month. The prices for these sample customers could be calculated for each service in the marketing materials. Such a system, or another similar system, should be developed to help consumers compare plans that are

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<sup>9</sup> TracFone Amended Petition at note 10.

structured differently. In the alternative, perhaps carriers could be required to compare the cost structure of two competing plans as a condition of receiving Lifeline support.

In sum, while we believe new choices and competitors will be a benefit to low-income consumers, the Commission must arm these consumers with the tools to make effective choices in the marketplace.

#### **IV. Lifeline Recipients Should Not be Limited to Incumbent Providers.**

##### **A. Reducing Barriers to Entry by Granting Lifeline-only ETC Status Will Bring Competitive Benefits and Increase Outreach to Low Income People.**

If competition is good for the vast majority of Americans, it is surely also good for people with lower incomes. It appears from the TracFone and AT&T petitions, as well as the comments from small carriers like Telescape,<sup>10</sup> that there are competitive telecommunications providers willing and able to serve low-income consumers. Given the disappointing levels of subscribership in the Lifeline program<sup>11</sup> and the inability of incumbents to enroll consumers in the program in many states, it seems a new approach by the Commission is warranted. If carriers can offer all of the services and functionalities supported by the Lifeline program, it makes sense to allow new companies to be certified as Lifeline-only ETCs.

Current ETC requirements for Lifeline providers impose a high barrier for competitive companies seeking to participate in the low-income fund. As NASUCA aptly points out, those requirements do not always serve the goals of the program. “[I]t is inappropriate to require an administrative burden for ETC designation that provides a

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<sup>10</sup> See Comments of Telscape Communications, Inc. (filed September 3, 2004).

<sup>11</sup> Report and Order and Notice of Proposed Rulemaking in the Matter of Lifeline and Link-Up, 19 FCC Rcd 8302 (2004), Appendix K at 15, Baseline Lifeline Subscriber Information, Year 2002.

disincentive to participation in Lifeline/Link-Up.”<sup>12</sup> We agree with NASUCA that the difference in goals for the High Cost and Lifeline programs warrant separate criteria for Lifeline-only ETC status.<sup>13</sup> Lifeline’s purpose is to compensate carriers for discounts to individual consumers, not to support infrastructure or other expenditures in the High Cost fund.

Expanding the range of service providers eligible to receive support under the Lifeline Program would for the first time create a truly competitive market for low-income consumers by creating a market-based incentive for carriers to engage in vigorous outreach to low-income consumers. This would be consistent with the Commission’s recent steps to increase subscribership and lower consumer costs.<sup>14</sup> In addition, the Commission adopted new outreach guidelines, noting the demonstrated impact outreach has on subscribership.<sup>15</sup> Adding a market incentive for new outreach, along with minimum disclosure guidelines, will enhance even further the outreach to low-income individuals and hopefully increase the number of households with telephones.

**B. A Speedy Rulemaking Should Be Combined with Case-by-Case Entry.**

While Public Interest Commenters share the view of many commenters that the FCC should initiate a rulemaking to address the issue raised here in a comprehensive manner, we do not necessarily agree with NASUCA that the FCC should hold petitions

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<sup>12</sup> NASUCA Comments at 3.

<sup>13</sup> See generally NASUCA Comments at 3-4; AT&T Petition at 5-6; TracFone Amended Petition at 5.

<sup>14</sup> The Commission expanded eligibility for Lifeline benefits to all people below 135% of the Federal Poverty level and extended eligibility to participants in several additional federal programs. Lifeline Order at 8.

<sup>15</sup> Lifeline Order, 19 FCC Rcd 8302, 8325, citing Carol Weinhaus, Tom Wilson, Gordon Calaway *et al.*, Telecommunications Analysis Project, *Calculations and Sources for closing the Gap: Universal Service for Low Income Households* (August 2000).

for ETC status in abeyance while the Commission completes a rulemaking.<sup>16</sup> It is difficult to balance whether the rules should be established universally in advance of allowing a particular practice, or whether it is better to allow companies that invest the time and money to develop proposals to proceed first to market with their services. Generally, Public Interest Commenters believe companies that develop innovative programs to serve low-income consumers should not be required to wait a significant amount of time before they are allowed to offer their services in the marketplace. On the other hand, we do not support allowing one or two companies, particularly incumbents, to abuse a regulatory process to gain a competitive advantage in the marketplace by excluding others from entering. A lengthy case-by-case proceeding for each Lifeline ETC would not be appropriate. Thus, we believe, on balance in this instance, the Commission should grant case-by-case permission with the appropriate safeguards described above, while quickly developing a rulemaking to establish across-the-board standards for all Lifeline ETCs.

## **VI. Conclusion**

In conclusion, we encourage the Commission to allow low-income people an opportunity to take advantage of wireless communications and to benefit from competition for their business. At the same time, we believe the Commission must ensure these consumers can make effective choices in the marketplace. Low-income consumers deserve the same choices in the marketplace as higher-income consumers, and often have a greater need for new and innovative services. If companies can meet those needs, they should be allowed to do so, as long as the interests of consumers can be protected.

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<sup>16</sup> NASUCA Comments at 6-7.



Respectfully submitted,

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## ATTACHMENT A

### Cell Phone Use (and Internet Use), by Various Demographic Breakouts

Group	Cell Phone	Internet Use
All Americans (18 & older)	74%	68%
Household income greater than \$75,000 annually	94	93
Household income under \$20,000 annually	51	45
Household income under \$30,000 annually	56	50
Seniors (age 65 and up)	46	27
Women, household income under \$30,000 annually	59	51
Single mothers, household income lower than \$30,000 annually	72	68
Single mothers, household income lower than \$40,000 annually	76	69
All female parents, household income lower than \$30,000	71	74
<b>Source:</b> Pew Internet & American Life Project, February 2004 survey of 2,200 Americans adults (age 18 and older)		

## ATTACHMENT B

### DESCRIPTION OF PUBLIC INTEREST COMMENTERS

The **Alliance for Community Media** is committed to assuring everyone's access to electronic media. The Alliance advances this goal through public education, a progressive legislative and regulatory agenda, coalition building and grassroots organizing. It is a nonprofit, national membership organization founded in 1976, the Alliance represents over 1,000 Public, Educational and Governmental (PEG) access organizations and community media centers throughout the country. It also represents the interests of millions of people who, through their local religious, community and charitable groups, use PEG access to communicate with their memberships and the community as a whole.

The **Appalachian People's Action Coalition** (APAC) is a nonprofit membership organization of approximately 500 mostly low-income residents of Appalachian Ohio. It advocates for low-income residents of southeastern Ohio on employment, economic development, consumer, and public utilities issues impacting the rural poor, and it operates a thrift store with and business office in The Plains, Ohio. APAC has successfully intervened in many rate and consumer service proceedings before the Public Utilities Commission of Ohio (PUCO).

The **Center for Digital Democracy** (CDD) is a nonprofit organization working to ensure that the digital media systems serve the public interest. CDD is committed to preserving the openness and diversity of the Internet in the broadband era, and to realizing the full potential of digital communications through the development and encouragement of noncommercial, public interest programming.

**Consumer Action** is a non-profit, membership-based organization that was founded in San Francisco in 1971. Since then, Consumer Action has continued to serve consumers nationwide by advancing consumer rights, referring consumers to complaint-handling agencies through its free multilingual hotline, publishing educational materials in Chinese, English, Korean, Tagalog, Russian, Vietnamese, and other languages, advocating for consumers in the media and before lawmakers, and comparing prices on credit cards, bank accounts, and long distance services. CA serves low and moderate income consumers through its national network of 7,300 community based organizations.

The **United States Conference of Catholic Bishops** (USCCB) is a nonprofit corporation organized under the laws of the District of Columbia. All active Catholic Bishops in the United States are members of the USCCB. The USCCB is a vehicle through which the Bishops speak cooperatively and collegially on matters affecting the Catholic Church, its people, and society in general. USCCB advocates and promotes the pastoral teachings of the Bishops in such diverse areas as social welfare, immigration, education, health care, civil rights and communications.